

## **REMARKS**

### **I. Introduction**

Claims 1 to 42 stand rejected. Claim 39 has been cancelled. Claims 40-42 have been amended. No new matter has been added. Claims 1-38 and 40-42 are presently pending. In view of the foregoing amendments and the following remarks, it is respectfully submitted that all of the presently pending claims are allowable, and reconsideration of the present application is respectfully requested.

Applicants note that an initialed copy of the PTO-1449 paper filed with the Information Disclosure Statement on April 3, 2001 has not been returned. Applicants respectfully request consideration of the Information Disclosure Statement, PTO-1449 paper and cited references with the next Office communication.

### **II. Rejection of Claims 1, 2, 4 to 10, 14 to 16, 18, 19, 24 to 30, 33 to 36, 39, and 41 Under 35 U.S.C. § 102(b)**

Claims 1, 2, 4 to 10, 14 to 16, 18, 19, 24 to 30, 33 to 36, 39, and 41 were rejected under 35 U.S.C. § 102(b) as anticipated by International Patent Application No. WO 99/66726 (“Dureau”). Claim 39 has been canceled thereby rendering moot the present rejection with respect to claim 39. It is respectfully submitted that Dureau does not anticipate the present claims for at least the following reasons.

To anticipate a claim, each and every element as set forth in the claim must be found in a single prior art reference. Verdegaal Bros. v. Union Oil Co. of Calif., 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). Furthermore, “[t]he identical invention must be shown in as complete detail as is contained in the . . . claim.” Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989). That is, the prior art must describe the elements arranged as required by the claims. In re Bond, 910 F.2d 831, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990).

Claim 1 recites a collector configured to store collected interactive media output “in a non-relational manner.”

Claims 14 and 15 recite storing interactive output “in a non-relational manner.” Claim 15 further recites that “collecting and aggregating is performed in real time.”

Claim 24 recites “a communications message server . . . that normalizes the response requests.” Claims 24 further recites a collector connected to the communications message server, and an aggregator.

Claim 33 recites “collecting the formatted response requests in a non-relational manner.”

Claim 41 has been amended to place it in independent form. Claims 40 and 42 have been amended to depend from claim 39.

With respect to claims 1, 14, 15, and 33, although Dureau may refer to an interactive digital television system for profiling user preferences, nowhere does Dureau state that response requests are collected or stored *in a non-relational manner*.

Claim 24 recites that the “a communication message server operably connected to the subscriber network that normalizes the response requests”. With respect to claim 24, the Office Action alleges that the set-top box of Dureau discloses the communications message server that normalizes response requests. However, while the set-top box of Dureau may store tracked information, nowhere does Dureau allegedly disclose, or even suggest, that the set-top box *normalizes* response requests. Furthermore, the Examiner relies on the set-top box of Dureau as allegedly disclosing the recited collector, and the broadcast stations as disclosing the recited aggregator. For this additional reason, it is respectfully submitted that Dureau does not disclose, or even suggest, a collector connected to a communications message server.

Claim 15 recites that the collecting is performed “in real time”. With respect to claims 15 and 41, the Office Action asserts that the collection of interactive data by the set-top box as it occurs discloses the recited processing of interactive output by the collectors and aggregators. However, the Office Action relies upon the broadcast stations of Dureau as disclosing the recited aggregators. Dureau states that data is not sent from the set-top box to the broadcast station in real time. Rather, Dureau’s set-top box waits for predetermined times before uploading the data to the broadcast station. Page 7, line 37 to page 8, line 10.

Thus, Dureau does not disclose, or even suggest, all of the limitations of any of claims 1, 14, 15, 24, 33, and 39. It is therefore respectfully submitted that Dureau does not anticipate any of claims 1, 14, 15, 24, 33, and 39.

Claims 2, and 4 to 10 ultimately depend from and therefore include all of the limitations of claim 1. It is therefore respectfully submitted that Dureau does not anticipate these dependent claims for at least the same reasons set forth above in support of the patentability of claim 1. Furthermore, claim 5 includes subject matter similar to that of claim 24. It is therefore respectfully submitted that Dureau does not anticipate claim 5 additionally for at least reasons similar to those set forth in support of the patentability of claim 24.

Claims 16, 18, and 19 ultimately depend from and therefore include all of the limitations of claim 15. It is therefore respectfully submitted that Dureau does not anticipate these dependent claims for at least the same reasons set forth above in support of the patentability of claim 15.

Claims 25 to 30 ultimately depend from and therefore include all of the limitations of claim 24. It is therefore respectfully submitted that Dureau does not anticipate these dependent claims for at least the same reasons set forth above in support of the patentability of claim 24.

Claims 34 to 36 ultimately depend from and therefore include all of the limitations of claim 33. It is therefore respectfully submitted that Dureau does not anticipate these dependent claims for at least the same reasons set forth above in support of the patentability of claim 33.

**III. Rejection of Claims 11 to 13, 20 to 23, 31, 32, 37, and 38 Under 35 U.S.C. § 103(a)**

Claims 11 to 13, 20 to 23, 31, 32, 37, and 38 were rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of Dureau and U.S. Patent No. 6,160,989 (“Hendricks et al.”). Applicants respectfully submit that the Examiner’s proposed combination of Dureau and Hendricks et al. does not render unpatentable claims 11 to 13, 20 to 23, 31, 32, 37, and 38 for the following reasons.

Claim 22 recites subject matter similar to that of claim 1. As set forth above, Dureau does not disclose or suggest all of the features of claim 1. Hendricks et al. are not relied upon for disclosing or suggesting the limitations of claim 1 not disclosed or suggested by Dureau. Indeed, it is respectfully submitted that Hendricks et al. do not disclose or suggest the limitations of claim 1 not disclosed or suggested by Dureau. It is therefore respectfully submitted that the combination of Dureau and Hendricks et al. does not render unpatentable claim 22 which includes subject matter similar to that of claim 1.

Claims 11 to 13 ultimately depend from and therefore include all of the limitations of claim 1. As set forth above in support of the patentability of claim 22, the combination of Dureau and Hendricks et al. does not disclose or suggest all of the limitations of claim 1. It is therefore respectfully submitted that the combination of Dureau and Hendricks et al. does not render unpatentable claims 11 to 13, which ultimately depend from claim 1. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988) (any dependent claim that depends from a non-obvious independent claim is non-obvious).

Claims 20 and 21 depend from and therefore include all of the limitations of claim 15. As set forth above in support of the patentability of claim 15, Dureau does not disclose or suggest all of the limitations of claim 15. Hendricks et al. are not relied upon for disclosing or suggesting the limitations of claim 15 not disclosed or suggested by Dureau. Indeed, it is respectfully submitted that Hendricks et al. do not disclose or suggest the limitations of claim 15 not disclosed or suggested by Dureau. It is therefore respectfully submitted that the combination of Dureau and Hendricks et al. does not render unpatentable claims 20 and 21, which depend from claim 15. *Id.*

Claim 23 depends from and therefore includes all of the limitations of claim 22. It is therefore respectfully submitted that the combination of Dureau and Hendricks et al.

does not render unpatentable claim 22 for at least the same reasons set forth above in support of claim 22.

Claims 31 and 32 ultimately depend from and therefore include all of the limitations of claim 24. As set forth above in support of the patentability of claim 24, Dureau does not disclose or suggest all of the limitations of claim 24. Hendricks et al. are not relied upon for disclosing or suggesting the limitations of claim 24 not disclosed or suggested by Dureau. Indeed, it is respectfully submitted that Hendricks et al. do not disclose or suggest the limitations of claim 24 not disclosed or suggested by Dureau. It is therefore respectfully submitted that the combination of Dureau and Hendricks et al. does not render unpatentable claims 31 and 32, which ultimately depend from claim 24. *Id.*

Claims 37 and 38 depend from and therefore include all of the limitations of claim 33. As set forth above in support of the patentability of claim 33, Dureau does not disclose or suggest all of the limitations of claim 33. Hendricks et al. are not relied upon for disclosing or suggesting the limitations of claim 33 not disclosed or suggested by Dureau. Indeed, it is respectfully submitted that Hendricks et al. do not disclose or suggest the limitations of claim 33 not disclosed or suggested by Dureau. It is therefore respectfully submitted that the combination of Dureau and Hendricks et al. does not render unpatentable claims 37 and 38, which depend from claim 33. *Id.*

#### **IV. Rejection of Claims 3, 17, 40, and 42 Under 35 U.S.C. § 103(a)**

Claims 3, 17, 40, and 42 were rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of Dureau and U.S. Patent No. 6,714,985 (“Malagrino et al.”). Applicants respectfully submit that the combination of Dureau and Malagrino et al. does not render unpatentable claims 3, 17, 40, and 42 for the following reasons.

Claim 3 ultimately depends from and therefore includes all of the limitations of claim 1. As set forth above in support of the patentability of claim 1, Dureau does not disclose or suggest all of the limitations of claim 1. Malagrino et al. are not relied upon for disclosing or suggesting the limitations of claim 1 not disclosed or suggested by Dureau. Indeed, it is respectfully submitted that Malagrino et al. do not disclose or suggest the limitations of claim 1 not disclosed or suggested by Dureau. It is therefore respectfully submitted that the combination of Dureau and Malagrino et al. does not render unpatentable claim 3, which ultimately depends from claim 1. *Id.*

Claim 17 ultimately depends from and therefore includes all of the limitations of claim 15. As set forth above in support of the patentability of claim 15, Dureau does not disclose or suggest all of the limitations of claim 15. Malagrino et al. are not relied upon for disclosing or suggesting the limitations of claim 15 not disclosed or suggested by Dureau. Indeed, it is respectfully submitted that Malagrino et al. do not disclose or suggest the limitations of claim 15 not disclosed or suggested by Dureau. It is therefore respectfully

submitted that the combination of Dureau and Malagrino et al. does not render unpatentable claim 17, which ultimately depends from claim 15. Id.

Claims 40 and 42 depend from and therefore include all of the limitations of claim 41. As set forth above in support of the patentability of claim 41, Dureau does not disclose or suggest all of the limitations of claim 41. Malagrino et al. are not relied upon for disclosing or suggesting the limitations of claim 41 not disclosed or suggested by Dureau. Indeed, it is respectfully submitted that Malagrino et al. do not disclose or suggest the limitations of claim 41 not disclosed or suggested by Dureau. It is therefore respectfully submitted that the combination of Dureau and Malagrino et al. does not render unpatentable claims 40 and 42, which depend from claim 41. Id.

V. **Conclusion**

In light of the foregoing, it is respectfully submitted that all of the presently pending claims are in condition for allowance. Prompt reconsideration and allowance of the present application are therefore earnestly solicited.

Respectfully submitted,

By: 

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